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ABSTRACT

When President Reagan took office in January 1981, the federal government had a four-fold function in public secondary and elementary education that included financing high-cost programs of overriding national significance and advancing the cause of civil rights throughout the nation. According to Reagan's "new federalism," the role of the federal government in education would allegedly stay substantially as it had been under the previous four presidents. In fact, however, such Reagan administration proposals as a 50 percent cut in the federal budget's support of school programs from 1980 to 1983 and the dismantling of the United States Department of Education suggest that Reagan's "new federalism" may merely represent a return to the "old federalism" that existed in 1917 before enactment of the United States Vocational Education and Child Nutrition Acts. The federal role in education is not likely to diminish as a result of Reagan's policies. Instead, the weight of federal involvement will be transferred increasingly from the executive branch to the legislative and judicial branches. School board members and administrators have a responsibility to communicate the importance of education as a national investment and to encourage sound partnership among federal, state, and local governments. (JBM)

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THE EMERGING ROLE OF THE FEDERAL GOVERNMENT
IN PUBLIC ELEMENTARY AND SECONDARY EDUCATION
IN THE UNITED STATES

An Address
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At The
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In order to understand the Reagan Administration's effort to change the federal presence in public elementary and secondary education, we must understand the base from which the Administration departs. That is, what was the federal role that affected the public schools just before President Reagan took office? Another way of saying that is: What did the federal government perceive as the national interest in the public schools? The question is couched in terms of "national interest" because it is from the national interest that a federal role springs. Lacking national interest, there is no federal role.

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If we could take a snapshot of the federal role on January 19, 1981, the day before President Reagan was inaugurated, we would see that the federal role in public secondary and elementary education was a four-fold endeavor. These four functions were fashioned primarily in the twentieth century, beginning with the U.S. Vocational Education Act and the U.S. Child Nutrition Act arising from bitter experience in World War I, early 1960's post-sputnik upsurge in federal support of science and mathematics education, the federal effort begun in 1965 with the U.S. Elementary and Secondary Education Act to enhance educational opportunity among the children from poor and disadvantaged families, and the efforts of the 1970's to help special categories of handicapped children realize their maximum educational and training potential. Of course, the judicial branch of the federal government was active during the past three decades in civil rights litigation, most noticeably in racial segregation cases and court trials dramatically expanding the rights of public school students on the school grounds. And, on January 19, 1981, the four federal functions in public school operation were administered by a new U.S. Department of Education headed by a Secretary who participated in the deliberations of the highest council of the land and who had direct and ready access to the oval office in the White House on issues affecting education.

The four functions were the product of over six decades of deliberation and evaluation. And they do not include the federal government's role in higher education that redounded to the benefit of the public schools, such as World War II's G.I. Bill which ushered competent and dedicated teachers into the public schools to teach the children of the "baby boom" decades following that war. The four functions of the federal government on January 19, 1981, impacted only upon public elementary and secondary education. They were:

1. To finance high-cost programs of overriding national significance.

These programs were aimed at serving a clearly recognized national interest. The problems they are expected to solve transcend state lines. Impact Aid (which defrays part of the cost of educating youngsters whose parents either live or work for the U.S. Government

in areas of the Nation that are impacted by members of the civil service or military forces), National Defense Education Act (which attempts to enrich science and mathematics courses to prepare more scientists and technical personnel without whose expertise our Nation would wilt in this modern day), aid for Cuban and other refugees (who are present in a local school district as a result of U.S. Immigration laws), School Lunch Act (which guarantees many children a satisfactory nutritional lunch that they might otherwise not have), and, in a lesser scale, funds for education in the metric system (which the Federal Government is committed to substitute for the English weights and measures system) are five examples of this kind of effort. Another example is in the panoply of programs to improve the economy by reducing unemployment and building public works. These programs had educational components that pumped federal funds into schools.

2. To finance the needs of special categories of students whom the Congress believed were not being given the attention they deserved at the state and local levels.

These programs overlap somewhat in purpose with the first part of the role mentioned above because they also address issues of national significance. The Elementary and Secondary Education Act of 1965 was the seminal program aimed at the children of economically deprived families. In later years, ESEA was augmented to pay for programs designed to teach the English language to children from families in which English was not the predominant language spoken in the home. P.L. 94-142, the Aid to All the Handicapped Act, provided funds to enrich the educational program for handicapped students and remove physical barriers in school buildings that denied those youngsters easy access on the school grounds. And the Emergency School Assistance Act, designed to encourage racial integration in the public schools, attempted to ease the financial burden in complying with our national public policy against segregation in the public schools set forth by the U.S. Supreme Court.

3. To advance the cause of civil rights throughout the Nation.

Enforcement of the U.S. Civil Rights Act through the Courts has been a major thrust of the federal government since the mid-1960's. Because the civil rights act may be enforced both by the U.S. Attorney General or by private legal counsel retained by a complainant (and whose lawyer fees are paid for by the federal government if the private lawyer successfully prosecutes) it is clear that this federal role in our litigious time will continue to expand regardless of who is President.

4. To serve as a liaison and clearinghouse for educational research.

Federal funding and the resultant access that the federal government has to universities and "think-tanks," in education equip the federal government nicely for this function. Unfortunately, the funds never have been sufficient to perform this role well.

In a nutshell, then on January 19, 1981, the four-pronged role of the federal government in the support of the public schools emphasized providing funds for high-cost educational programs directly related to the national interest; supplementing state and local financial aid to assist financing the education of students whom the federal government believed were not being given adequate attention at home; promoting civil rights; and being a national liaison among the states and a clearinghouse for educational research. And it was administered by a Cabinet-level Secretary and a Department of Education.

What is the situation in February, 1982? From a purely functional and organizational point of view, not really very different. Education Secretary Terrel H. Bell said just last month that there is a five-pronged federal role in education in (what he terms) "the new federalism." He identified:

1. Providing leadership on a national scale with an emphasis on excellence.

2. Gathering data, evaluating it, and identifying emerging trends in education.
3. Granting what Bell precisely called "limited and carefully targeted supplementary 'result-oriented' support to remediate gross educational deficiencies that are national in scope," such as aid to handicapped, disadvantaged, Title I ESEA (now Chapter I of the "Educational Improvement and Consolidation Act of 1981") and students in higher education; (Bell was most cautious to declare that such efforts would be designed to be so successful that continued indefinite remedial aid by the federal government will not be necessary.)
4. Guaranteeing equal opportunity and equal rights (In this connection, Bell said that the emphasis in civil rights would shift from coercion to persuasion and, in this process, the "Education Foundation" would play a key role with the U.S. Department of Justice doing any enforcement through litigation if finally required); and,
5. Functioning as a national research and development source in education.

If we take the Secretary's description of the "new federalism" and match it with the actions of the Reagan Administration during the past year, we would conclude, at least at first blush, that the primary difference between this administration and its predecessors since Lyndon B. Johnson would be a difference of organizational form and of funding.

That is, this administration advocates the establishment of a sub-Cabinet educational foundation, independent of any Cabinet-level department, with substantially reduced levels of funding for education (and, apparently, in the case of child nutrition and vocational education, a complete federal bail-out).

But the role of the federal government in education would stay substantially as it was under Presidents Carter, Ford, Nixon and Johnson, according to the Secretary.

But, it would be erroneous to dismiss the differences separating the Reagan Administration from its predecessors as merely organizational format and funding levels. If we look behind the rhetoric of the Administration, we see a mixed bag for the public schools based upon the underlying philosophy of the Administration towards the public schools.

To begin with, the Administration genuinely (and I think laudably) wants to end the flood of federal regulations and paperwork requirements that have become so bitterly associated with federal education aid programs. It truly wants to place primary decision-making power in the use of federal funds for education in the hands of state and local school authorities.

Moreover, the Administration really wants excellence in education and a strong liaison between home and school. It recognizes that diversity is essential to educational excellence and to a high quality of life in our society. It avers that excellence depends on competition -- among both students and schools. And the Administration wants the moral side of education to be reaffirmed. Presidential Counselor Edwin Meese III told this to California school board members and administrators at their convention just two months ago. And sensible school people, in my judgment, can find much to agree in these broadly stated precepts.

Recalling Shakespeare, though, these are only words. In Act III of "Henry VIII," Shakespeare wrote:

"And 'tis a kind of good deed to say well;
and yet words are no deeds."

Let us look at the deeds, then (both done and planned), as they relate to the federal role in education, and ask ourselves some tough questions about the future federal role in the public schools.

This Administration is proposing an almost 50 percent cut in the federal budget supporting elementary and secondary school programs through 1983 from the fiscal year 1980 levels. It proposes dismantling the U.S. Department of Education and establishing, in its stead, a sub-Cabinet-level Foundation, with the Administration of the federal programs being

dispersed to other Departments. The Administration also is poised to propose a tuition tax credit for private elementary and secondary education students. And it wants to turn back vocational education and child nutrition totally to the states beginning in 1984.

Comparing the words and the deeds (actual and planned) of the Administration, several key questions arise:

- Does "competition among schools" mentioned by Mr. Meese mean private school vouchers or federal tuition tax credit legislation? If so, will the public policy governing public schools also govern private schools? If not, how can there be true competition between private and public schools? And what about the precept that public control always follow public funding? Isn't the "diversity" that Mr. Meese lauds now existing among 16,000 public school districts sufficient?
- What about federal education mandates being removed coincident with any reduction of federal funding? What about duplication of administrative effort and the inefficiency (from the perspective of local school people) of dispersing education functions from one Department to a plethora of Departments throughout the federal government?
- How does the federal government shift revenue sources to state and local levels to pay for those education programs transferred from the federal government? Will Congress really be interested in funding these federally initiated programs when they take all the heat for raising the revenue and get none of the credit, as in the case of the demise of federal revenue sharing in the 1970's? And how can the executive branch of the federal government cause the legislative and judicial branches to end their substantial share of federal regulations and mandates?
- What does the federal government propose to do about "moral education" or the "reconstruction of a values structure" in our diverse society?
- What is "leadership on a national scale" in education? Is this consistent with the diversity that exists now in education?

These questions remain to be answered. Until they are answered, we really won't know if the "new federalism" will reshape substantively the national interest in education or whether that term is Orwellian newspeak for the "old federalism" that existed in 1917 before the enactment of the U.S. Vocational Education Act and the U.S. Child Nutrition Act.

But there are at least two things that are certain now:

1. A President today cannot end the federal presence in education by executive fiat.

To begin with, our federal government has three branches: executive, legislative, and judicial. When the President talks about deregulation of education, he is talking about the executive branch because that is all he controls. He has only limited authority over the legislative branch (through party discipline and his veto power) and holds merely a disjointed and long-term liaison with the judiciary (through his power to appoint judges).

When the executive branch deregulates, enormous pressure is put on the other two branches to impose regulations desired by powerful national special interest groups. This is done through lobbying in Congress and the filing of law suits.

When the advocates of special interest groups realize that they have nobody listening to them in the White House or Department of Education because of a commitment to deregulation, they transfer their focus on the Congress. Their work is reflected in more detailed federal legislation. Effectively, the substance of the executive branch regulations will appear as integral parts of the statutes enacted into law rather than as separate regulations. Congress will cooperate in this effort because the Members know that, without executive branch regulations to put the flesh on the bones of a law, the law itself must have more substantive minutiae. With the continuing expansion of Congressional "oversight" (i.e., supervision over the implementation of federal programs by Congressional subcommittees through periodic formal evaluation of the programs),

there will be a growing tendency by Congress to be more and more specific and detailed in drafting legislation to fill the vacuum caused by the executive branch deregulation. But, this will be a long-term change, as Congress acts to remedy problems as they are identified and attributed to lack of more specific guidance in operative legislation. Then, the amendment proposals will begin to flow, gathering momentum because of isolated "horror stories" that legislators everywhere cannot resist responding to.

A similar phenomenon impacts upon the judiciary. When advocates are cut off from influencing the formulation of executive branch regulations, they will resort more readily to the courts after the law in which they are interested in is operative. Thus, a whole new set of judicial regulations, substituting for the defunct executive branch regulations, will arise. And the mischief that court-made regulations produce will be compounded.

That is, judges make rulings that are tailored to a particular fact situation. The rulings inherently are narrowly drawn and usually applicable only to the parties in the case. But the advocates endeavor to expand the meaning of the rulings and make them universally applicable. They do this by publicly imputing that school boards and school administrators are outlaws because those officials are not in agreement with their interpretation of a court decision, or failing to politically intimidate school boards and school administrators, they file new law suits.

Since there are many courts and not all judges evince a similarity of perspective, the result is a crazy-quilt network of inconsistent, overlapping and often contradictory rulings that are the abomination of school board members and administrators charged with the practical task of delivering federal programs in the local community and exposed to increasing liability under the U.S. Civil Rights Act if they improperly perform that task. From the standpoint of school boards and administrators, this could mean that in the long-term future, more money will need to be spent on legal services than is now the case, especially in the arena of civil rights

enforcement, where most of the legal action will be. It is that enforcement effort that is relatively independent of the White House, especially since the enactment of the "private attorney's general" law during the Ford Administration. Under that law, private lawyers who successfully prosecute civil rights violators are paid their fees by the governmental agency they sue.

Thus, it is clear that the federal presence in education will abide, regardless of who is President and how much he deregulates the executive branch. Indeed, some people argue that the expansion of the roles of the judiciary and Congressional branches in de facto regulation making will enlarge rather than diminish the federal presence in the public schools in the years ahead.

2. School board members and administrators are not helpless observers of the passing parade -- you can influence the future as advocates of the public schools.

If federal assistance for public elementary and secondary education is to survive under the economy-oriented, budget-driven, defense-minded Reagan Administration, the old arguments undergirding the four-part role of the federal government in education must be recast in a new light. It is not enough to quote Jefferson on the need for an intelligent citizenry to make democracy work. Our effort must be directed towards relating the health of our economy and our national defense to the education of children. And that raises the question: "Is there a relationship between public education and President Reagan's timely and sensible call for reindustrialization, increased productivity and a better defense posture?" The answer is a booming "yes!"

Nothing could be more clear than the absolute indispensability of education to the training of a competent worker, soldier, sailor, or airman. It provides the set of basic and advance skills that our economy demands from its people in order to grow and our military requires of its personnel in order to defend us. Education also provides the base to sustain the momentum in reindustrialization and

and rearming. A sound educational program is an investment in the future of our nation. And things that detract from that goal, such as slashing federal funding for many critical educational programs, cannot do other than damage the long-term national interests of America.

In pondering that conclusion, there are two essential facts that must be considered:

- The lead time to develop human resources is a long one indeed. It takes a score of years to provide young people with some of the diverse skills they need to be employable in our technical society. It can't be done by a "quick and dirty" crash program. Therefore, cutting federal funds in education today won't be fully felt in our nation's economy until many of us are long gone from the scene.
- The 18-24 year old age group in our society generally is declining. Business leaders predict a worker shortage in our nation by the turn of the century. But a curious element is mixed in that demographic: The decline in that age group is almost entirely attributable to a decline in white people -- the numbers of minority racial and ethnic group people in that age group are expected to stay more or less constant. This means that persons of minority race or ethnic background will comprise a relatively larger portion of the 18-24 year age group than is the case today. Yet it is that group of minorities most hurt by the proposals to cut educational funding by the federal government because they cut across three of the four categories of federal educational funding discussed earlier.

School people in their role as advocates for students, should make it a point to sit down with your Congressmen at home and discuss, not "supply-side" economics but "supply-side" education. If that kind of education theory is embraced by the Congress, then our nation will be guaranteed all the skilled workers and military personnel we will need as we enter the 21st century eighteen short years from now. And there will be a sound partnership among the federal, state and local governments that

both nicely balances the interests of all three levels in quality education and best matches the broader financial resources of the federal government with the creativity, ingenuity and resourcefulness of the local and state educational authorities.